

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

BRITTANY STARZI

Plaintiff,

v.

DEPTFORD TOWNSHIP

and

DEPTFORD
TOWNSHIP POLICE DEPARTMENT

and

SGT. KEVIN CLEMENTS

Defendants.

CIVIL ACTION NO.

CIVIL ACTION

COMPLAINT AND JURY DEMAND

COMPLAINT

Plaintiff Brittany Starzi, by and through her attorney, Emeka Igwe, Esq., brings this civil action against Defendants, Deptford Township, Deptford Township Police Department, and Sgt. Kevin Clements, individually and in his official capacity as Police Officer in Deptford Township.

JURISDICTION AND VENUE

1. This is a federal civil rights action brought pursuant to 42 U.S.C. §§1981, 1983, 1985, 1986, 1988 and the Fourth and Fourteenth Amendments of the United States Constitution. Jurisdiction is founded on 28 U.S.C. §§1331 and 1343.
2. Venue is appropriately laid in the United States Court for the District of New Jersey pursuant to 28 U.S.C. §1391(b).

PARTIES

3. Plaintiff Brittany Starzi (“Plaintiff”), is an adult individual and citizen of the State of New Jersey who resides within Deptford Township at 10 Moore Avenue, Westville, New Jersey 08093.
4. Defendant Deptford Township (“Township”), is a municipal corporation duly incorporated and authorized under the laws of the State of New Jersey.
5. Defendant Deptford Township Police Department (“Police Department”), is a police department in Deptford Township, New Jersey, which acts as the agent of Township in the area of law enforcement and for which it is ultimately responsible. The Township assumes the risks incidental to the maintenance of its Police Officers and the employment of its police officers.
6. Defendant Sgt. Kevin Clements (“Sgt. Clements”), is an adult individual and citizen of the State of New Jersey. Defendant Clements is a police officer in the Deptford Police Department and an employee of Deptford Township.

FACTS

7. On March 8, 2018, at approximately 2:17 a.m., Plaintiff was a patron of Nipper’s Pub, when Sgt. Clements entered the bar with another uniformed officer to remove unwanted bar patrons.
8. Sgt. Clements approached Plaintiff, yelled at her to exit the bar, and pushed her toward the exit.
9. Sgt. Clements without provocation or justification, brutally assaulted Plaintiff by punching Plaintiff in her face.

10. Plaintiff was knocked to the ground by the force of Sgt. Clements' punch and sustained severe and permanent injuries from both the initial punch and the subsequent fall to the ground.
11. Following the assault, Sgt. Clements unlawfully arrested Plaintiff and transported Plaintiff to Deptford Township Police Department where she was processed and charged with aggravated assault of an officer and other related charges.
12. Upon Plaintiff's release, she was transported from Deptford Township Police Department to a nearby hospital.
13. Plaintiff was treated for multiple severe and permanent injuries including, but not limited to several facial contusions, a broken nose, deviated septum, and concussion.
14. Plaintiff has had to undergo surgery for the damage to her nose and will have to undergo further surgery on her nose due to the severe damage.
15. On April 3, 2019, all charges against Plaintiff stemming from her arrest on March 18, 2018 were dismissed.

COUNT I
SECTION 1983 CLAIM
UNREASONABLE AND EXCESSIVE FORCE

16. Plaintiff incorporates the allegations contained in Paragraphs 1-15 of the Complaint as if more fully set forth herein.
17. Sgt. Clements' unlawful, careless, negligent, and reckless acts of assault and the use of unreasonable and excessive force showed deliberate indifference to the safety and well-being of Plaintiff.

18. By his conduct, Sgt. Clements deprived Plaintiff of her right to be free from excessive and unreasonable use of force under the Fourth and Fourteenth Amendment of the United States Constitution.

19. As a direct and proximate result of Sgt. Clements' misconduct and abuse of authority detailed herein, Plaintiff sustained severe and permanent physical and psychological injuries.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, in an amount that will reasonably and properly compensate her in accordance with the laws of the State of New Jersey, as well as punitive damages, attorney's fees, interest and costs of suit, and any other relief as the Court deems just and equitable.

COUNT II
ASSAULT AND BATTERY

20. Plaintiff incorporates the allegations contained in Paragraphs 1-19 of the Complaint as if more fully set forth herein.

21. Sgt. Clements without provocation or justification, punched Plaintiff causing her to sustain several facial contusions, a concussion, broken nose, and deviated septum.

22. Plaintiff was punched with such force that she was knocked to the ground sustaining further injury.

23. Sgt. Clements was acting in his individual and official capacity as a Deptford Township Police Officer and, within the scope of his employment, committed an unlawful and unwarranted assault and battery upon Plaintiff.

24. The unjustified attack on Plaintiff caused her to sustain serious and permanent injuries and was the direct and proximate result of Sgt. Clements' misconduct.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, in an amount that will reasonably and properly compensate her in accordance with the laws of the State of New Jersey, as well as punitive damages, attorney's fees, interest and costs of suit, and any other relief as the Court deems just and equitable.

COUNT III
NEGLIGENT AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

25. Plaintiff incorporates the allegations contained in Paragraphs 1-24 of the Complaint as if more fully set forth herein.

26. Defendants negligently caused severe emotional distress to the Plaintiff by their extremely negligent actions and breach of their duty of care, including but not limited to engaging in and/or allowing a senseless physical attack upon the person of the Plaintiff which lead to severe physical injuries.

27. Defendants acted unlawfully and recklessly with deliberate disregard of a high degree of probability that emotional distress would follow. Defendants' conduct was extreme and so outrageous in character and degree as to go beyond all bounds of decency.

28. As a direct and proximate result of the Defendants' extremely negligent, reckless, and indifferent conduct, Plaintiff suffered severe pain, emotional distress, and mental anguish as the result of being assaulted.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, in an amount that will reasonably and properly compensate her in accordance with the laws of the State of New Jersey, as well as punitive damages, attorney's fees, interest and costs of suit, and any other relief as the Court deems just and equitable.

COUNT IV
NEGLIGENT HIRING, TRAINING, AND SUPERVISION

29. Plaintiff incorporates the allegations contained in Paragraphs 1-28 of the Complaint as if more fully set forth herein.
30. The use of excessive force used on Plaintiff by Sgt. Clements was not an isolated incident. It was the direct result of systemic deficiencies in the training, supervision, and discipline of Defendants Deptford Township and Police Department's employees, including Sgt. Clements.
31. Defendants Township and Police Department developed, implemented, enforced, and sanctioned a pattern, practice, and/or policy of the use of unreasonable and excessive force on individuals.
32. Officers, including Sgt. Clements, have a systematic and documented history of aggressive police practices, including the use of excessive force against the public, unlawful arrests, and malicious prosecution.
33. In the past ten (10) years there have been numerous complaints of civil rights violations, including the use of excessive force, filed against Defendant Township through its Police Department, including Sgt. Clements.
34. Defendants Township and Police Department engaged in a policy, custom, and practice of inadequate screening, hiring, retaining, training, and supervising its employees, which was the moving force behind the violation of Plaintiff's rights described herein.
35. Defendants Township and Police Department failure to properly screen, hire, retain, supervise its employees, and remedy constitutional violations by its officers, including Sgt. Clements, was the moving force behind the violation of Plaintiff's rights described herein.

36. Defendants Township and Police Department authorized and condoned Sgt. Clements' conduct and have been indifferent to the illegal conduct complained of herein.
37. The foregoing pattern, practice, and/or policy of the use of unreasonable and excessive force constitute deliberate indifference to the safety, well-being, and constitutional rights of Plaintiff and was the direct and proximate cause of the constitutional violations suffered by Plaintiff.
38. Defendants Township and Police Department failed to impose discipline or investigate misconduct on the part of its Police Officers, including Sgt. Clements, prior to and including in this case, despite actual and constructive notice that Sgt. Clements engaged in a habit and pattern of using excessive force.
39. Defendants Township and Police Department were negligent and/or reckless in its hiring and retention of Police Officers, including Sgt. Clements.
40. All of the acts herein committed by Sgt. Clements for which liability is claimed were conducted in his individual capacities and were done unlawfully, maliciously, wantonly, recklessly, with deliberate indifference, negligently, and/or with bad faith.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, in an amount that will reasonably and properly compensate her in accordance with the laws of the State of New Jersey, as well as punitive damages, attorney's fees, interest and costs of suit, and any other relief as the Court deems just and equitable.

COUNT V
VIOLATIONS OF NEW JERSEY CIVIL RIGHTS ACT

41. Plaintiff incorporates the allegations contained in Paragraphs 1-40 of the Complaint as if more fully set forth herein.

42. Defendants are “persons” within the definition of the New Jersey Civil Rights Act N.J.S.A. 10:6-2 et. seq. and required to act pursuant to the requirements expressed herein.
43. Defendants acted unconstitutionally in their attack upon Plaintiff. Defendants policies were established by the municipality and/or officials appointed by the municipality and delegated with express authority to make, adopt, and enforce policies, rules, orders, and regulations.
44. By attacking Plaintiff, Defendants deprived Plaintiff of her rights, privileges, or immunities secured by the United States Constitution and violated Plaintiff’s Equal Protection rights, N.J.S.A 10:6-2, and clear established law in the State of New Jersey.
45. Defendants, acting under the color of statute, ordinance, reputation, custom, and usage have deprived and caused Plaintiff to be subjected to the deprivations of her rights, privileges, and immunities secured by the New Jersey Constitution and law of the State of New Jersey, including her right to liberty, her right to be secure as a person against excessive use of force, and her right to freedom or association secured to her by the New Jersey State Constitution.
46. Defendants, acting under the color of law, unlawfully deprived Plaintiff of her civil rights by, inter alia, seizing her, using excessive force against her, failing to intervene to prevent the unlawful acts against her, and failing to properly hire, train, retain, and supervise police officers.
47. Defendants’ acts were done in knowing violation of Plaintiff’s legal and constitutional rights and have caused Plaintiff injuries, including physical injury, humiliation, mental pain and suffering, and emotional distress.

48. Defendants' deprivation of Plaintiff's civil rights violates the New Jersey Constitution and gives rise to Plaintiff's claims for redress under N.J.S.A. 10:6-1 et. seq.

49. Defendant Township is directly liable for the acts of its Police Officers in the performance of their duties under the color of state, county, and municipal law.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, in an amount that will reasonably and properly compensate her in accordance with the laws of the State of New Jersey, as well as punitive damages, attorney's fees, interest and costs of suit, and any other relief as the Court deems just and equitable.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE Plaintiff demands a trial by jury.

DESIGNATION OF TRIAL COUNSEL

PLEASE TAKE NOTICE attorney Emeka Igwe is hereby designated as trial counsel in the above-captioned litigation for the Igwe Firm.

THE IGWE FIRM
Attorneys for Plaintiff



Emeka Igwe, Esquire

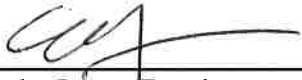
DATED: October 24, 2019

CERTIFICATION OF NO OTHER ACTIONS

I certify to the best of my knowledge and belief that the dispute is not the subject of any other action pending in any other court or a pending arbitration proceeding.

Also, to the best of my knowledge and belief no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this complaint, I know of no other parties that should be made a part of this lawsuit. In addition, I recognize my continuing obligation to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification.

THE IGWE FIRM
Attorneys for Plaintiff



Emeka Igwe, Esquire

DATED: October 24, 2019